

# ANNUAL REPORT 2018



**Legal Aid Board**

An Bord Um Chúnaimh Dílthiúil



## **Mission**

Our mission is to enable the effective resolution of civil disputes through the delivery of efficient and accessible legal aid and family mediation services and to effectively manage and administer the State's criminal legal aid schemes.

## **Vision**

Our vision is to provide access to justice by enabling the resolution of disputes and the vindication of people's rights in the most appropriate manner while keeping in mind the dignity of the person, the nature of the dispute and the impact of the dispute on the parties immediately involved and wider society.

## **Values**

- The client, access to justice and problem solving being central to our decision making.
- High professional and ethical standards in the provision of all of our services at all times delivered impartially and with professionalism and integrity
- A focus on learning, innovation and problem solving in the delivery of services in response to an ever changing legal and social environment
- Effective leadership at all levels and enabling staff to make the best use of their abilities and skills
- A culture that promotes a team ethic and respect for the human dignity of the client and that of the colleague
- The provision of good value for money
- Openness and transparency
- Effective governance and accountability relationships and structures with the Department of Justice and Equality, Government and the public

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## Overview

### 1. Function and Purpose

The Legal Aid Board is the statutory, independent body responsible for the provision of **civil legal aid and advice** to persons of modest means, in accordance with the provisions of the Civil Legal Aid Act 1995 (the “Act”). The Act was amended by Section 54 of the Civil Law (Miscellaneous Provisions) Act 2011 which gave the Board the additional responsibility to provide a **family mediation** service. The Board’s remit is in the process of being further expanded, following a Government decision, to include within the Board’s remit the management and administration of the various **criminal legal aid** schemes previously administered by the Department of Justice and Equality. Responsibility for the administration of the Garda Station Legal Advice Scheme, the Legal Aid - Custody Issues Scheme (formerly titled the Attorney General’s Scheme) and the Criminal Assets Bureau Ad-hoc Legal Aid Scheme has transferred to the Board.

**Legal advice**, in terms of the Board’s remit in civil cases, is any oral or written advice given by a solicitor or barrister, including writing letters and negotiations.

**Legal aid** is representation by a solicitor or barrister in court proceedings. A person must first obtain a legal aid certificate, which specifies the legal services being granted, and,

in civil cases, must pay the legal aid contribution specified on the certificate. Legal services are provided across a wide range of civil law matters.

### 2. Service Provision

Civil legal aid and advice is provided primarily through a network of law centres by solicitors employed by the Board. There are 30 full time and 12 part-time law centres. Contact details for the Board’s law centres can be found on [www.legalaidboard.ie](http://www.legalaidboard.ie). Services are also provided by solicitors in private practice who are engaged by the Board on a case-by-case basis.

Specific law centres in Dublin, Cork and Galway include an international protection speciality and there are also dedicated units in Dublin dealing with personal injury and/or medical negligence cases and cases involving children at risk.

The Board also operates a specialised Refugee Documentation Centre, which provides an independent and professional research and library service for all of the main bodies involved in the international protection process.

**Family mediation** services are provided through eight full time offices and nine part time offices. Contact details can be found on the Board’s website.

Services in the three criminal legal aid ad-hoc schemes currently under the Board's remit, the Garda Station Legal Advice Scheme and the Legal Aid - Custody Issues Scheme, and the Criminal Assets Bureau Ad-hoc Legal Aid Scheme are provided through private solicitors and barristers.

### **3. Obtaining Civil Legal Aid Legal Services**

Save for the Abhaile Scheme (see page 27), a person seeking legal services in civil cases must apply to any of the Board's law centres and must complete an application form, stating the subject matter on which legal advice and/or aid is sought and giving details of income and any capital resources.

The Board seeks to ensure that a person who qualifies for civil legal aid (legal services) will be offered an appointment with a solicitor within a maximum period of four months from the time the application is completed or will be offered earlier legal advice if it is not possible to provide full legal services within four months. A priority service is provided in certain cases including cases involving domestic violence, child abduction, applications by the State (Tusla) to take children into care or under supervision, and cases that have statutory time limits close to expiry.

### **4. Eligibility and Payment for Civil Legal Aid Legal Services**

There are financial eligibility criteria which the majority of civil legal aid applicants must meet in order to be eligible for legal services. Furthermore the legal services provided by the Board are subject in most cases to the applicant paying a financial contribution and thus are not 'free'. The legal advice contribution is assessed on the applicant's disposable income, i.e. income after certain deductions. The legal aid contribution is assessed on the applicant's disposable income and disposable capital. The minimum contribution is €30 for legal advice and €130 for legal aid. No fee is payable by applicants who are seeking advice and / or representation in cases (involving Tusla) to have their child taken into care or under supervision, nor is a contribution payable in domestic violence cases in the District Court. The law centre advises a person of the actual contribution in each individual case. In the event that a person recovers money or property arising from the case, the Board may seek to recover the cost to the Board of providing legal services to the client.

### **5. Obtaining Family Mediation Services**

A person seeking to avail of mediation to assist with the resolution of a family problem must apply to any of the Board's family mediation offices. The second party also needs to contact the same office to confirm his/her interest in attending mediation. Once both parties have confirmed that they wish to mediate they will be offered an



appointment as soon as possible. There is no requirement for an applicant to meet financial eligibility criteria and there is no charge for the service.

## **6. Criminal Legal Aid Ad-hoc Schemes**

There are five criminal legal aid schemes, three of which are administered by the Board.

Persons detained under certain legislation in Garda stations may be entitled to legal advice under the Garda Station Legal Advice Revised Scheme by way of telephone and / or in-person consultations in the Garda station. They may also be entitled to legal advice by way of the attendance of a solicitor with them at Garda interviews. A person seeking legal advice under the Garda Station Legal Advice Revised Scheme must make their request to the Custody Officer in the Garda Station where they are detained. They must complete the standard Application Form and provide details of their financial means to ensure that they satisfy the financial eligibility threshold.

The Legal Aid - Custody Issues Scheme provides for payment of legal costs on the recommendation of the Court to the Legal Aid Board in certain types of litigation not covered by the civil legal aid scheme or the main criminal legal aid scheme. A person seeking legal representation under the Scheme must notify the relevant Court at the earliest possible opportunity of their intention to apply for the Scheme's

provisions. The Court will then decide if a recommendation should be made to the Board to grant legal aid. It is then a matter for the Board to decide, in accordance with the terms of the Scheme, to either grant or refuse legal aid under the Scheme.

The Criminal Assets Bureau Ad-hoc Legal Aid Scheme provides for payments to be made in respect of certain legal costs in certain types of litigation on the decision of the Court. These include, but are not limited to, cases where a person is a Respondent in any court proceedings brought by the Criminal Assets Bureau under the Proceeds of Crime Act 1996, Revenue Acts and Social Welfare legislation. A person seeking legal representation under the Scheme must notify the relevant Court at the earliest possible opportunity.

Legislation providing for the transfer to the Board of the main Criminal Legal Aid Scheme is awaited.

Further details of the three ad-hoc schemes that the Board administers and the outturn for 2018 are provided later in the Report.

## **7. Head Office**

The Board's head office is located in Cahirciveen, County Kerry. Some head office functions are carried out from Dublin.



The *Code of Practice for the Governance of State Bodies* was revised in 2016 and the Board updated its Corporate Governance Manual in November 2016, to reflect the additional requirements. The Board continues to maintain the standards of corporate governance set out in the updated *Code of Practice for the Governance of State Bodies*. This involves:

## 8. Corporate Governance

The Civil Legal Aid Act 1995 makes provision for the appointment of a Chairperson and 12 ordinary members to the Board. The current Board was appointed by the then Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, on 8<sup>th</sup> November 2016. Membership of the Board is set out at page 5.

The statutory Board has responsibility for:

- the strategic direction of the organisation;
- determining policy and monitoring its implementation;
- overseeing the proper and effective management of the organisation;
- monitoring the implementation of effective financial procedures and providing accountability;
- approving and monitoring budgets; and
- making certain reserved decisions.

- at Board level, the use of seven committees to assist it in achieving its objectives and in the effective discharge of its responsibilities (see below);
- a defined division of roles between the Board, the Chairperson and the Chief Executive;
- submission to the Minister of an annual report that meets the requirements of the Code;
- an internal audit function that operates effectively and as required; and
- a code of conduct that incorporates procedures to deal with any conflict of interest issues.

In 2018, the Board held 10 Board meetings, five of which were held in Dublin, two in Cahirciveen, one in Clondalkin, one in Kilkenny and one in Wexford.

# The Board

**The Board as of 31 December 2018:**

**Philip O’Leary**

Chairperson

**Anne-Marie Blaney**

Civil Servant (Staff Member)

**Tom Brennan**

Chartered Accountant

**Deirdre Burke**

Solicitor

**Martina Colville**

Department of Justice and Equality

**Angela Denning**

Department of Public Expenditure and Reform

**Nuala Egan**

Barrister at Law

**Nuala Jackson**

Senior Counsel

**Gordon Jeyes**

Former Chief Executive of Tusla, the Child and Family Agency

**Maurice Lawlor**

Department of Social Protection

**Freda McKittrick**

Assistant Director, Barnardos

**Michael O’Connell**

Civil Servant (Staff Member)

**Ellen O’Malley Dunlop**

Chairperson of the National Women’s Council of Ireland



**Attendance at the 10 meetings in 2018 was as follows:**

| Member                     | No. of meetings | Member                       | No. of meetings |
|----------------------------|-----------------|------------------------------|-----------------|
| Mr. Philip O’Leary (Chair) | 10              | Ms. Nuala Jackson            | 8               |
| Ms. Anne-Marie Blaney      | 10              | Mr. Gordon Jeyes             | 8               |
| Mr. Tom Brennan            | 8               | Mr. Maurice Lawlor           | 9               |
| Ms. Deirdre Burke          | 9               | Mr. Freda McKittrick         | 9               |
| Ms. Martina Colville*      | 7               | Mr. Michael O’Connell        | 10              |
| Ms. Angela Denning**       | 2               | Ms. Evelyn O’Connor***       | 7               |
| Ms. Nuala Egan             | 8               | Ms. Ellen O’Malley<br>Dunlop | 10              |

\*Ms. Martina Colville was appointed to the Board in January 2018

\*\*Ms. Angela Denning was appointed to the Board in September 2018

\*\*\*Ms. Evelyn O’Connor resigned from the Board in August 2018

**The committees of the Board met as follows in 2018:**

| Committee                   | No. of meetings |
|-----------------------------|-----------------|
| Appeal Committee            | 17              |
| Audit and Risk Committee    | 5               |
| Family Mediation Committee  | 4               |
| Finance Committee           | 9               |
| Governance Committee*       | 2               |
| Human Resources Committee** | 4               |
| Performance Committee       | 2               |
| Policy and Reform Committee | 5               |

\*The Governance Committee was set up as an ad-hoc committee following an external Board review in 2018.

\*\*The Human Resources Committee ceased in October 2018.

The Board utilises an in-house corporate governance manual to provide a clear and comprehensive summary of the principal aspects of corporate governance as it affects the Board and senior management. Board members have been fully informed of their legal responsibilities and are familiar with statutory provisions relevant to their position and the key organisational issues, policies and strategies that inform their role.

### **External Board Review**

An external evaluation of the Legal Aid Board was carried out in the first half of 2018 by Governance Ireland.

The Review contained a number of recommendations on the operation of the Board and its Committees, as well as ten minor action points. It also included a review of the main corporate governance documents used in the Board, highlighting specific issues for attention.

The Audit and Risk Committee of the Board incorporates one independent external member, Mr Kieran Corcoran, in line with the requirements of the Code of Practice for the Governance of State Bodies. Mr Corcoran stepped down from the role in November 2018 and was replaced by Mr Michael Flynn. Payment and non-payment of fees to Board members were in line with the Code of Practice for the Governance of State Bodies.

The Review was published in full on the Board's website. At its meeting in July 2018, the Board approved the establishment of a Governance Committee to oversee the implementation of the recommendations in the External Board Review.



## Chairperson's Foreword

I am pleased to present the 2018 Annual Report of the Legal Aid Board.

2018 saw a marginal reduction in the numbers waiting for legal services at the Board's law centres. At the end of the year the number of persons waiting for legal services stood at 1,754. This was the sixth successive year in which there was a decrease (from over 5,000 in 2013). I look forward to seeing further progress in this key performance metric. The Board and I are very conscious that any delay in the provision of legal advice or representation to someone in need of its services has the potential to add to the difficulty that the person is experiencing.

I am very conscious that the majority of those who present to the Board for assistance do so in relation to a family problem. I recognise that the effectiveness and efficiency of the family justice system are critical issues from the Board's perspective both in terms of serving the needs of its clients and of ensuring that the Board's resources are used to best effect. The Board continues to engage with other key stakeholders in relation to potential improvements that can be made to the system of resolving family disputes and I welcome this. I strongly believe that if issues such as a Family Courts Bill can be progressed this will have a positive impact on how family problems are resolved.

I am glad to report that there has been good progress with the pilot 'model office' project in Kilkenny. Among the actions taken were the establishment of a mediation office and a much more structured and pro-active engagement with local stakeholders and the public. This project will be formally reviewed in 2019 and I look forward to the outcome of that review and what lessons we can learn and replicate in other offices.

2018 saw significant progress in one of the Board's key objectives, namely the co-location of Family Mediation Centres with Law Centres. The Board opened its third and fourth co-located offices in Kilkenny and in Tallaght during the year. At the end of the year there was progress towards co-location in two further locations. Taken with the increasing presence of the Board's mediation staff in court venues, particularly at District Family Court sittings, this reflects the ongoing commitment of the Board in making mediation a conventional rather than an alternative option of dispute resolution in the family law arena.

While I have noted that the majority of those seeking the Board's services do so in relation to a family problem it is very important to remember that the Board's functions are much broader – legal aid and advice are critical pillars in ensuring access to justice. One area that the Board has been providing support in is in relation to the Abhaile Scheme, established in 2016 to support persons at risk of losing their home on account of mortgage arrears. A feature of 2018 was the substantial increase in the number of persons who sought legal aid to challenge creditors' refusals to approve Personal Insolvency Arrangements. The Abhaile Scheme is funded to the end of 2019 and it remains to be seen if it or some other form of support is provided to mortgage debtors thereafter.

An issue that I have highlighted during my tenure to date as Board Chairperson is the fact that the financial eligibility criteria for legal aid and advice have not been substantially changed since 2006. I am also very conscious that there is no discretion or capacity to provide services to persons who may be marginally outside the financial limits. There is significant potential at the moment for 'poverty traps' to arise. An example is that HAP support, which is a State support to help people find homes, can have the effect of bringing the same people outside the financial eligibility threshold. The Board's Executive is engaged with the Department of Justice and Equality in relation to the financial eligibility criteria and I would very much welcome early progress on this.

One development that I have been keen to promote is the establishment of a more comprehensive research function within the Board. I am pleased to say that a full time research officer was appointed in 2018 and a Research Oversight Group was established. I recognise that legal aid is not an area that has been significantly researched and I have no doubt of the benefit in the longer term of being able to take a more evidence based approach to decision making.

The Board continues to support the delivery of the criminal legal aid schemes, in particular the Garda Station Legal Advice Scheme, the Criminal Assets Bureau Legal Aid Scheme and the Legal Aid – Custody Issues Scheme. Legislation is expected in due course to transfer responsibility for the main Criminal Legal Aid Scheme to the Board and I look forward to the publication of draft legislation. I also welcome any progress towards the commencement of the provisions of the Assisted Decision Making (Capacity) Act 2015 which I believe will offer considerably enhanced protections to a cohort of vulnerable people.

The Board remains committed to the highest standards of corporate governance. An external evaluation of the Board's effectiveness was completed in 2018. The Review Report endorsed the manner in which the Board goes about its business while at the same time giving useful advice as to how things can be done better. Recognising that the Board has a presence in almost every county, during 2018 the Board met in Wexford and Kilkenny as well as at the Board's principal offices in Cahirciveen, Co.

Kerry and in Dublin. It took the opportunity to officially open new offices in both of these locations, the openings being conducted by Minister Paul Kehoe (Wexford) and Minister Charlie Flanagan (Kilkenny).

I wish to thank Ms Evelyn O'Connor, who stood down from the Board during 2018, for her service and to wish her well in her challenging new role.

I wish to express my continuing gratitude firstly to the Board's staff for their ongoing commitment, dedication and professionalism in the delivery of services to customers and secondly to the private solicitors and barristers who are similarly at the kernel of providing a meaningful service. Our aim is to provide the best outcome to the service user by the best means available and we must continually challenge ourselves in that commitment. I would also like to acknowledge the continued support of the Minister for Justice and Equality and his Department.

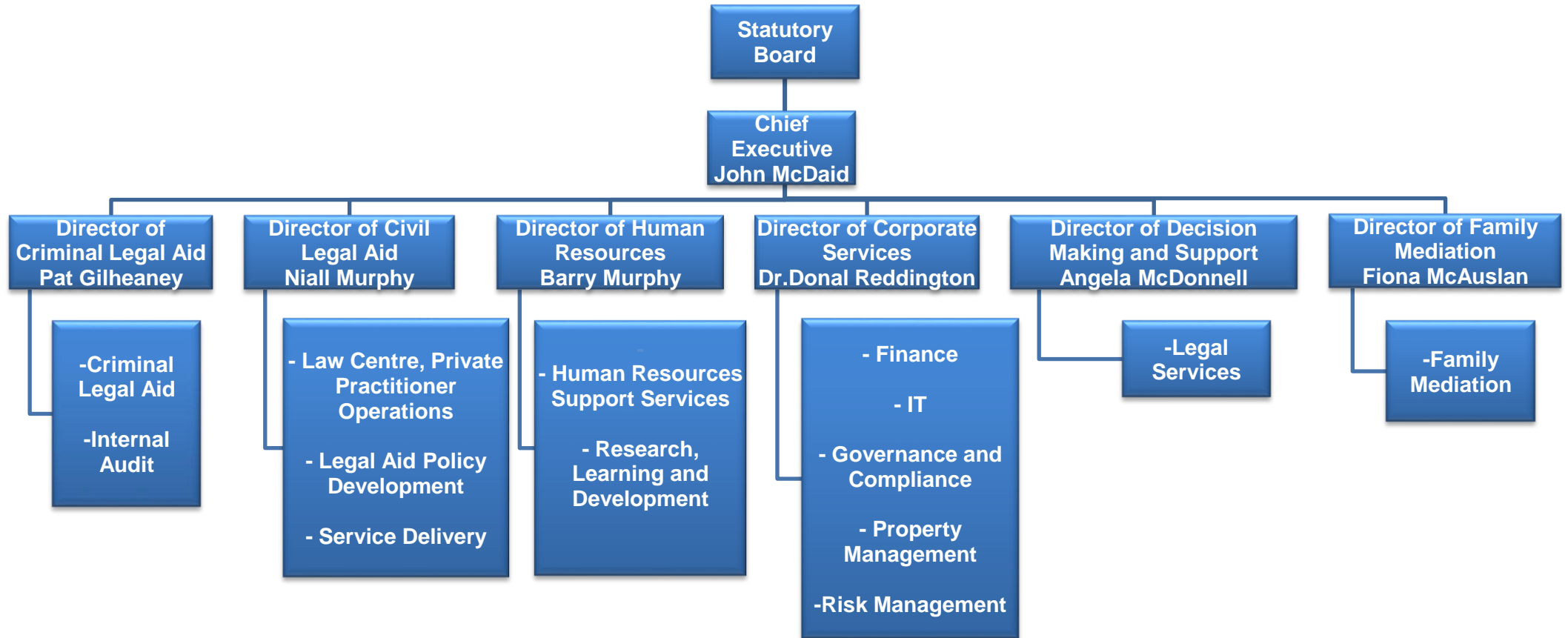
**Philip O'Leary**  
Chairperson

## Head Office Executive Staff

|   |  |
|---|--|
| <b>Chief Executive Officer:</b>                 | John McDaid  |
| <b>Director of Civil Legal Aid:</b>             | Niall Murphy   |
| <b>Director of Human Resources:</b>             | Barry Murphy   |
| <b>Director of Corporate Services:</b>          | Dr. Donal Reddington   |
| <b>Director of Decision Making and Support:</b> | Angela McDonnell   |
| <b>Director of Family Mediation Services:</b>   | Fiona McAuslan   |
| <b>Director of Criminal Legal Aid:</b>          | Pat Gilheaney  |
| <b>Financial Controller:</b>                    | Joan Enright   |
| <b>Secretary to the Board:</b>                  | Mary O'Connor  |
| <b>Auditors:</b>                                | Comptroller and Auditor General  |
| <b>Solicitors:</b>                              | Holmes O'Malley Sexton   |
| <b>Head Office:</b>                             | Quay St.<br>Cahirciveen<br>Co. Kerry<br>Phone: 066 9471000<br>LoCall 1890 615200<br>Fax: 066 9471035 |
| <b>Dublin Office:</b>                           | 48/49 North Brunswick St<br>George's Lane<br>Dublin 7<br>Phone: 01 6469600                           |
| <b>Website:</b>                                 | <a href="http://www.legalaidboard.ie">www.legalaidboard.ie</a>                                       |



# Structure





## by the Chief Executive

I am pleased to introduce the Board's Annual Report for 2018.

In 2018 there were 18,248 new applications to law centres which was an increase of just under 7% on the number of applications in 2017. (This figure excludes applications on foot of the Abhaile Scheme). As has been the case in every year since its inception, the majority of applicants seeking services from the Board did so in relation to a family problem. Of the 18,248 applications, approximately 84% involved a family matter. The numbers seeking services in relation to international protection matters rose from 1,358 to 2,079.

The Abhaile Scheme is part of the State's response to the mortgage debt problem and it involves the provision of legal advice, and in certain limited circumstances legal aid, to persons who are insolvent and at risk of losing their family home. The Scheme was established in July 2016. In 2018 there was a very considerable drop in the number of persons seeking legal consultations on foot of the Scheme (from 1,933 in 2017 down to 782). Against that however the number of legal aid certificates granted to take proceedings to have proposed Personal Insolvency Applications approved by the Courts rose from 469 in 2017 to 625. The Scheme was established to the end of 2019 and it remains to be seen if it is maintained or if other supports are put in place.

Speedy access to the Board's services and to the justice system generally, has always been a priority for the Board. As of the 31<sup>st</sup> December 2018 there were 1,754 persons waiting for legal services which was a reduction from the figure of 1,776 at the start of the year. While the reduction is very marginal, a key objective is to reduce the number further with a consequent reduction in waiting times. There are significant numbers of situations which are either prioritised or where an applicant is effectively given an "on demand" service. Cases involving domestic violence and cases involving applications by Tusla to take children into care or under supervision are always prioritised while most persons seeking legal aid for family law cases in the District Court are granted a legal aid certificate on demand or shortly afterwards.

In 2018 civil legal aid services continued to be provided using a mixed model of employed staff including solicitors in the Board's network of 30 law centres and two specialist offices, and private solicitors paid on a fee per case basis. Private solicitors are used primarily for private family law matters in the District Court and for advice and representation to persons seeking international protection from the State, in addition to the services they provide on foot of the Abhaile Scheme. In 2018 there was a 19% increase (to a figure of just over 7,150) in the use of private solicitors for private disputes in the District Family Court on the figure for 2017. Private solicitors are used to a lesser extent in divorce and separation cases in the Circuit Court – 63 such cases

were referred to private solicitors in 2018. The Board continued to operate a limited scheme involving the use of private solicitors to represent parents in applications by the Child and Family Agency to have children taken into its care. This scheme operated in Counties Dublin, Donegal and Wexford and was very effective in ensuring the speedy delivery of legal services to parents in these cases. 94 referrals were made in 2018.

On the family mediation side the Board continued in 2018 to provide family mediation services in eight full time offices and nine part time offices and to pursue its policy of co-locating its law centres and family mediation offices where this was opportune. The objective of the co-locations is to encourage more persons seeking legal services in relation to a family dispute to seek to resolve the dispute with the assistance of a mediator rather than through a court process.

In 2018 the Board piloted a 'mandatory group information scheme' involved requiring persons seeking legal aid for family law matters where a dependent child is involved, to attend an information session about the option of family mediation before they could be granted a legal aid certificate for court representation. Previously individual information sessions had been mandated on a pilot basis but an evaluation questioned whether the time investment was the best use of the Board's resources. The revised scheme was being evaluated at the end of the year.

The joint initiative between the Board and the Courts Service which makes family mediation freely available on site at the District Family Court in Dublin continued to operate and showed positive signs in terms of take up. The number of persons who attended the family mediation office for a first information session increased by 20% to 1,406 and I hope that we can maintain this progress. There is a strong sense that the environment on the fourth floor, where the family mediation office is, is more conducive to a resolution of a dispute than the often overcrowded general waiting area for the courts. More modified initiatives involving the presence of mediators at the Courts were in place in Naas, Limerick, Clonmel, Nenagh, Ennis and Dundalk.

The Board held its annual conference in September and the theme of the conference as reform of the family justice area. The event brought together a number of judges, senior officials in the Department of Justice and Equality and the Department of Children and Youth Affairs, lawyers practising in the area of family law, family mediators and NGO's with an interest in the family justice area. What was abundantly clear was the appetite for reform and for improving the client experience.

The Board continued to be responsible for the administration of three ad-hoc schemes: the Legal Aid - Custody Issues Scheme, the Garda Station Legal Advice Revised Scheme and the Criminal Assets Bureau Legal Aid Scheme. The transfer of responsibility for the administration of the main criminal legal aid scheme requires a legislative intervention which has yet to be enacted.

I want to acknowledge the contribution of our staff. I have consistently sought to convey internally, two messages that I regard as key. The first is that the client must be at the

centre of all of the Board's decision making. We must always keep the clients' interests at the heart of what we do. The second is that staff are the Board's greatest resource. The commitment of staff, their resilience and their willingness to learn and develop, is critical to the Board's work and I want to use this opportunity to acknowledge all of the really good work that our staff do, often in very challenging circumstances. I also must recognise and acknowledge the contribution of the private solicitors and barristers whose work is critical to the provision of legal aid.

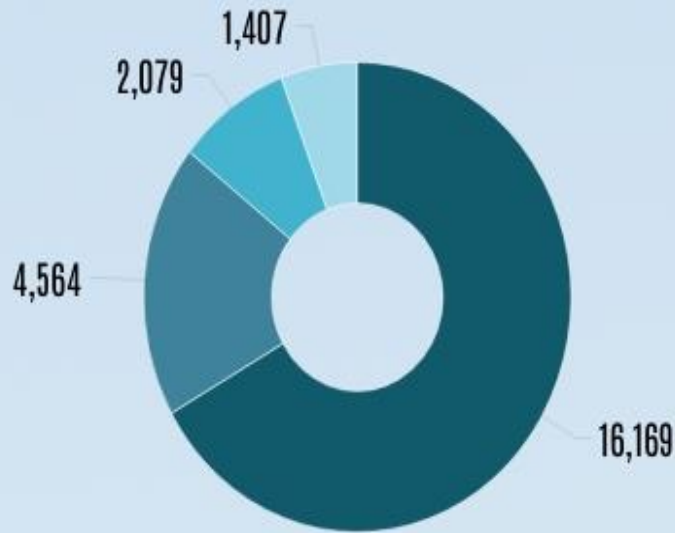
Finally I wish to express thanks to the Minister for Justice and Equality, and the Secretary General of the Department and his staff for their ongoing engagement and support.

John McDaid  
Chief Executive

# Key Developments of 2018

## Applications in 2018

There were 24,219 applications made in 2018 of which 16,169 were for civil legal aid, 2,079 for international protection and 1,407 related to the Abhaile Scheme. 4,564 persons applied for family mediation services.



|                            |        |                    |       |
|----------------------------|--------|--------------------|-------|
| ● Civil Legal Aid          | 16,169 | ● Family Mediation | 4,564 |
| ● International Protection | 2,079  | ● Abhaile          | 1,407 |

No. of Persons Waiting for Legal Services



The number of persons waiting for legal services continued to fall. There were 1,754 waiting at the end of the year, a further reduction from 2017 and a decrease for the 6th successive year, down from over 5,000 in 2013.



Applications for civil legal aid increased 3% from 15,745 in 2017 to 16,169 applications in 2018.



There were 2,079 applications for international protection, a 53% increase on 1,358 applications received in 2017.





1,807

New Family Mediation (All Issues) Cases

475

New Court Based Mediation Cases

In 2018 a total of 2,282 new cases attended mediation availing of 10,197 sessions, including information sessions given to one party only, resulting in 1,218 agreements. There were a total of 2,584 mediation cases closed in 2018.

31%

The Criminal Assets Bureau (CAB) Ad-hoc Legal Aid Scheme figure in 2018 totalled €147,000 (VAT inclusive) which is an increase of 31% on the 2017 figure.

4,307

During 2018, the Board processed 4,307 claims in respect of the Garda Station Legal Advice Revised Scheme with the total cost of authorised claims amounting to €1,548,400.

Applications under the Abhaile scheme decreased from 2,402 in 2017 to 1,407 in 2018 though there was a significant increase in demand for the more resource intensive Domestic Violence Applications





## Services Provided in 2018

The extended remit of the Legal Aid Board means that services are provided by the Board in the following areas:

**General Civil Legal Aid**  
**Abhaile – Free Mortgage Arrears Support**  
**International Protection Services**  
**Family Mediation**  
**Criminal Legal Aid**

### Civil Legal Aid

#### *Demand for the service*

18,248 applicants sought civil legal aid services from the Board's law centres in 2018. The type of problems for which the Board provides legal services extends to most areas of civil law although in 2018, as has been the case since the Board's inception in 1980, the majority of

applicants sought services in relation to family problems.

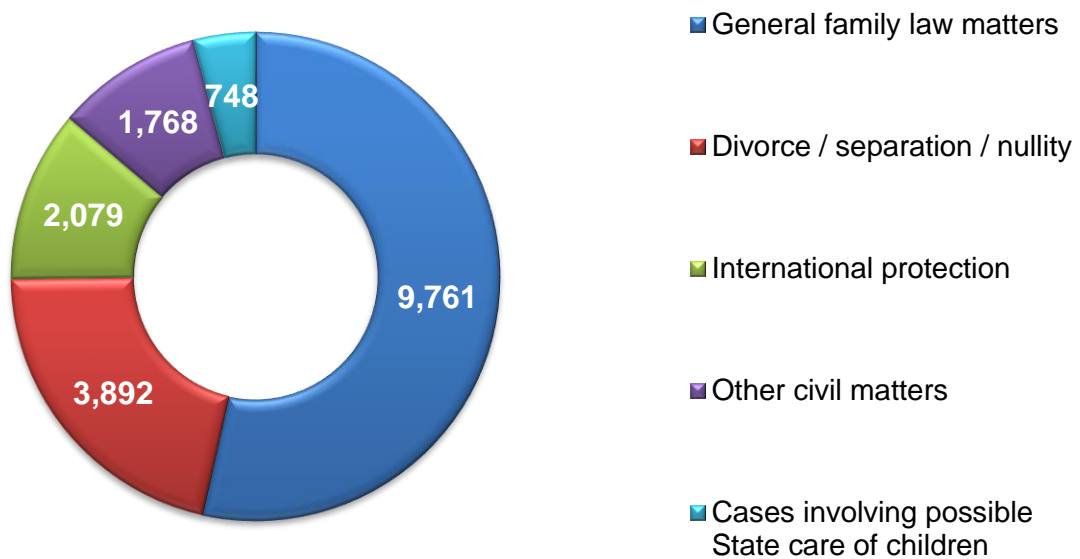
The total number of cases in which legal services were handled through the Board's law centre network in 2018 was in the region of 17,803.

**Table 1 - Number of applications 2013-2018**

| Year                            | 2013          | 2014          | 2015          | 2016          | 2017          | 2018          |
|---------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <b>General</b>                  | 16,851        | 15,531        | 15,256        | 14,991        | 15,611        | 16,169        |
| <b>International protection</b> | 708           | 902           | 1,537         | 1,658         | 1,489         | 2,079         |
| <b>Total</b>                    | <b>17,559</b> | <b>16,433</b> | <b>16,793</b> | <b>16,649</b> | <b>17,100</b> | <b>18,248</b> |

It should be noted that not every applicant is provided with legal services. A number of applicants do not pursue their application when they are offered an

appointment. Chart 1 gives the approximate breakdown of applications by case type.

**Chart 1 - Number of applications by case type 2018**

### Law Centres

Legal aid and advice was handled through the Board's law centres in over 17,803 cases in 2018. Table 2 provides information on case numbers in law centres. As in 2017 the figure includes

persons provided services in relation to applications for international protection in the State and is not directly comparable with 2016 and previous years.

**Table 2 - Cases handled in law centres**

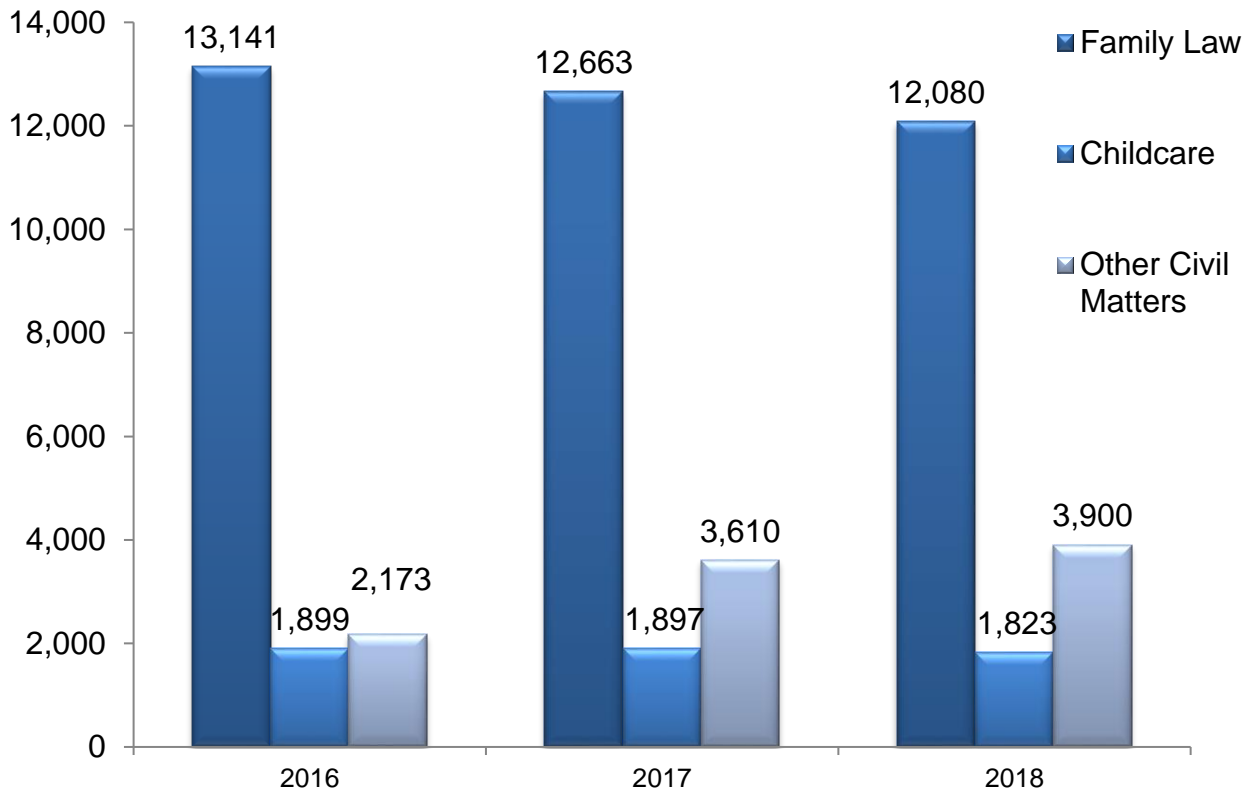
| Year         | 2013   | 2014   | 2015   | 2016   | 2017*  | 2018*  |
|--------------|--------|--------|--------|--------|--------|--------|
| <b>Total</b> | 17,304 | 18,338 | 17,959 | 17,213 | 18,170 | 17,803 |

\*Including international protection cases

### **Legal aid and advice cases**

Chart 2 below highlights that family law continues to constitute the predominant area where the Board provides legal

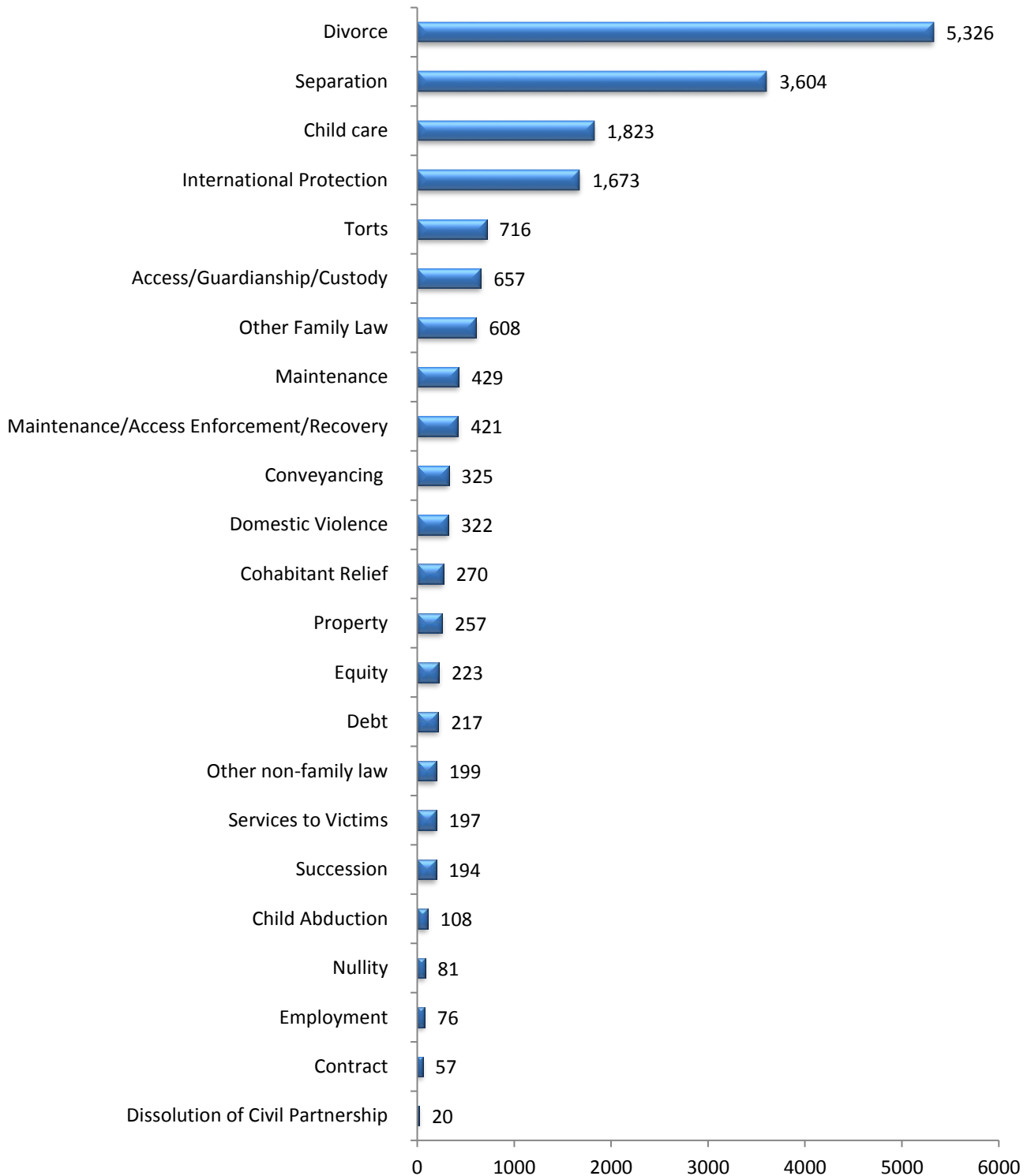
services. Of the cases handled in 2018, 66% were in the private family law area.

**Chart 2: Cases 2016-2018**

A more detailed breakdown of the main issues in respect of which legal services were provided in 2018 is provided in Chart 3. It is likely that in relation to a significant number of separation and divorce cases, advice was also given on matters such as maintenance, domestic violence, and child welfare. Such additional advices are not separately recorded in the above figures. In addition

it should be noted that applicants often apply for legal services in relation to, for example, both domestic violence and custody/access, or custody/access and maintenance. For the purposes of this chart a client in receipt of aid or advice for multiple family law issues has been categorised in relation to the principal matter for which they obtained legal services.

### Chart 3 - Cases by subject matter 2018



### Case turnover

As can be seen from Table 3 below, there was a slight decrease in the number of new cases taken on in the law

centre network in 2018 compared to 2017.

**Table 3 - New Cases in law centre**

| Year             | 2013  | 2014  | 2015  | 2016  | 2017* | 2018* |
|------------------|-------|-------|-------|-------|-------|-------|
| <b>New Cases</b> | 6,650 | 6,300 | 6,264 | 6,119 | 6,299 | 6,221 |

\*Including international protection cases

### Duration of cases

Table 4 below provides an age profile of cases in which legal services were provided by law centres in 2018. The year indicates when the application for

legal services was first made. It should be noted that there may have been a time delay in the person getting a first appointment with a solicitor.

**Table 4 - Cases handled in 2018; year of application**

| Year          | Pre-2014 | 2014  | 2015  | 2016  | 2017  | 2018  |
|---------------|----------|-------|-------|-------|-------|-------|
| <b>Number</b> | 1,859    | 1,044 | 1,616 | 2,792 | 5,391 | 5,101 |

### Cases completed

Of the 17,803 cases handled in the law centres in 2018, 5,852 (33%) were completed by the end of the year. Table 5 below shows how this number

compares with the number of completed cases in other recent years. Table 6 gives an age profile of those cases closed in 2018 by subject matter.

**Table 5 - Numbers of cases closed**

| Year                | 2013  | 2014  | 2015  | 2016  | 2017* | 2018* |
|---------------------|-------|-------|-------|-------|-------|-------|
| <b>Cases Closed</b> | 4,910 | 5,757 | 6,059 | 5,699 | 6,052 | 5,852 |

\*Including international protection cases

**Table 6 - Cases completed in 2018; length of time open**

| Case Type                  | <1 Year      | 1-2 Year     | 2-3 Years  | 3+ Years     | Total        |
|----------------------------|--------------|--------------|------------|--------------|--------------|
| International protection   | 164          | 208          | 4          | 1            | 377          |
| Child care                 | 201          | 139          | 75         | 116          | 531          |
| Divorce/separation/nullity | 653          | 639          | 512        | 938          | 2,742        |
| Non-family law             | 513          | 208          | 69         | 113          | 903          |
| Other family law           | 682          | 326          | 144        | 147          | 1,299        |
| <b>Totals</b>              | <b>2,213</b> | <b>1,520</b> | <b>804</b> | <b>1,315</b> | <b>5,852</b> |

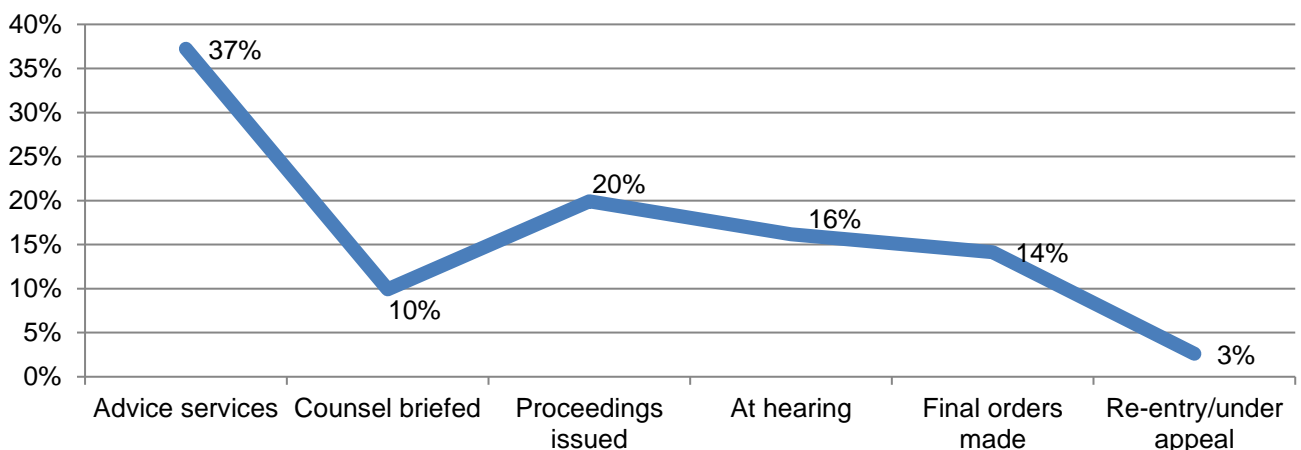
It can be seen from Table 6 that divorce, separation and nullity cases generally take longer to reach completion than most other family law matters. Approximately 47% of divorce,

separation and nullity cases completed in 2018 had been on-going for longer than three years, compared to 9% of childcare cases and 22% of other family law matters.

### **Cases on Hand**

Chart 4 below gives the status of all of the Board's active cases as of the 31<sup>st</sup> December 2018. This type of

information helps the Board in monitoring the progress of cases.

**Chart 4 - Case active as at 31 December 2018**



### **Use of Solicitors Panels**

Private solicitors are engaged by the Board to provide legal aid services to complement the service provided by law centres. Private solicitors are currently used for certain family law matters in the District Court (such as domestic violence, maintenance, guardianship and custody / access cases). Private solicitors were used to a very limited extent in 2018 for divorce and separation cases in the Circuit Court. The Board continued with a limited pilot involving

private solicitors in cases involving applications by the State (Child and Family Agency) to take children into care. 94 such cases were referred to private solicitors. Services in relation to the Abhaile Scheme are provided entirely by private solicitors who have received specific training.

A breakdown is given in Table 7 of the number of legal aid certificates granted to enable representation to be provided in the District and Circuit Courts by solicitors in private practice who are on the Board's panels.

**Table 7 - The number of new cases in which private solicitors provided representation**

| Year  | 2013         | 2014         | 2015         | 2016         | 2017         | 2018          |
|---|--------------|--------------|--------------|--------------|--------------|---------------|
| <b>District Court private family law</b>        | 5,640        | 5,224        | 5,351        | 5,208        | 6,002        | 7,154         |
| <b>District Court Childcare (pilot Project)</b> | N/A          | 7            | 106          | 103          | 88           | 94            |
| <b>Circuit Court</b>                            | 0            | 10           | 77           | 89           | 30           | 63            |
| <b>Abhaile consultations</b>                    |              |              |              | 429          | 1,933        | 782           |
| <b>Circuit Court PIA reviews</b>                |              |              |              | 94           | 469          | 625           |
| <b>International Protection</b>                 | 197          | 818          | 653          | 810          | 1,035        | 1,479         |
| <b>Total</b>                                    | <b>5,837</b> | <b>6,059</b> | <b>6,187</b> | <b>6,733</b> | <b>9,557</b> | <b>10,197</b> |

Fees paid to private solicitors for private District Court family law cases are generally 10-15% of the fee payable for Circuit Court cases.

## Timeliness of the service

2018 saw a relatively small reduction in the numbers of applicants waiting for legal services at the end of the year compared to at the start of the year. The numbers waiting for a substantive service as of the end of the year was 22

less than it was at the start as is evidenced by the figures in Table 8. Table 8 sets out the number of persons waiting on the 31st December 2018 and on the same date in the previous five years for legal services with a solicitor.

**Table 8 - The number of persons waiting on the 31<sup>st</sup> December 2018**

| Year                  | 2013  | 2014  | 2015  | 2016  | 2017  | 2018  |
|-----------------------|-------|-------|-------|-------|-------|-------|
| <b>Number Waiting</b> | 5,067 | 3,412 | 2,319 | 1,864 | 1,776 | 1,754 |

The maximum waiting time in weeks, as of the 31st December 2018 is set out for the various law centres in Table 9 below. It must be emphasised that this table gives a snapshot of waiting times at a

particular point in time. Waiting times will go up and down depending on demand and on the capacity of each law centre to offer appointments to new clients.

**Table 9 - Waiting times in Law Centres on the 31<sup>st</sup> December 2018**

| Law Centre             | Law centres not operating triage | Triage Appointment | Further waiting time where triage appointment previously given |
|------------------------|----------------------------------|--------------------|--|
| Athlone                | 7                                |                    |  |
| Blanchardstown         | 44                               |                    |  |
| Castlebar              | 10                               |                    |  |
| Cavan                  | 18                               |                    |  |
| Clondalkin             | 12                               |                    |  |
| Cork-Popes Quay        | 28                               |                    |  |
| Cork-South Mall        | 22                               |                    |  |
| Dundalk                | 18                               |                    |  |
| Ennis                  |                                  | 21                 | 17   |
| Finglas                | 46                               |                    |  |
| Galway - Francis St    | 9                                |                    |  |
| Galway - Seville House |                                  | 8                  | 8  |
| Jervis St              | 15                               |                    |  |
| Kilkenny               | 17                               |                    |  |
| Letterkenny            | 8                                |                    |  |
| Limerick               | 11                               |                    |  |
| Longford               |                                  | 26                 | 29   |
| Monaghan               | 12                               |                    |  |
| Navan                  |                                  | 19                 | 15   |
| Nenagh                 | 16                               |                    |  |
| Newbridge              | 11                               |                    |  |
| Portlaoise             | 18                               |                    |  |
| Sligo                  | 7                                |                    |  |
| Smithfield             | 28                               |                    |  |
| Tallaght               | 21                               |                    |  |
| Tralee                 | 32                               |                    |  |
| Tullamore              | 6                                |                    |  |
| Waterford              | 14                               |                    |  |
| Wexford                | 8                                |                    |  |
| Wicklow                | 17                               |                    |  |

### **Priority Service**

The Board continued to provide a priority service where it considered that an immediate, or near immediate, service was needed. In 2018 approximately 30% of first appointments were for prioritised matters. These included cases of domestic violence, child abduction, cases involving applications by the State

to take children into care, and cases that had statutory time limits close to expiry.

In addition to the cases given priority in the law centres, most of the cases referred out to solicitors on the Board's private practitioner panels were referred immediately or shortly after the person had applied for legal aid.

### **Family Law Case Study**

The client attended at a law centre having been served with divorce proceedings by her husband's solicitor. The client was financially assessed and found to be eligible for legal aid. She was granted a legal aid certificate for the purpose of representation in the proceedings. The parties had attended marriage guidance counselling and they had also attended with a family mediator. With the assistance of the mediator they had been able to reach an agreement in relation to care and contact arrangements for the children of the marriage but they had not been able to reach agreement on property or financial issues.

The client was given legal advice and a settlement meeting took place involving the parties' legal representatives but again it did not result in a settlement. The matter proceeded in court and both parties gave evidence in relation to their financial circumstances, financial needs, work histories and their plans and aspirations for the future. After hearing the evidence the Judge granted the parties a divorce and she made a number of ancillary orders including an order that the family home remain in the parties joint names and that it be sold and the proceeds split when the youngest child reached 23 years of age, that pending that the client have the right to reside in the house to the exclusion of her husband, that maintenance be paid by the husband for each of the children in a certain amount until each child reached 23 years of age or was no longer dependent and that each party retain their own pensions on the basis that the other party would not claim against the pension. The client was satisfied with the outcome and felt that it would allow her to get on with her life with some security for the children.

## Abhaile – Free Mortgage Arrears Support

During 2018 the Board continued its involvement in the Abhaile Scheme, the Government's scheme of financial and legal assistance for insolvent persons who are in danger of having their home repossessed. Other organisations involved in the provision of services are MABS National Development CLG and local Money Advice and Budgeting Services, the Insolvency Service of Ireland, and the Citizens Information Board.

The Scheme works on the basis that a person applies to their local MABS service who will "triage" the person and identify the financial and/or legal services the person requires. The financial assistance element of the scheme involves the provision of services by a dedicated MABS mortgage arrears advisor, a personal insolvency practitioner, or an accountant. The legal assistance element, which normally follows on from financial assistance, involves three strands:

- A solicitor consultation service, involving the provision of a single legal advice consultation. In certain circumstances authority might be granted to conduct

negotiations to settle pending repossession proceedings.

- A "duty solicitor" service, where solicitors are rostered to attend repossession lists at county registrars courts. The solicitor may offer advice on the court procedure to the person and may (if permitted by the County Registrar) speak on behalf of the person and make an application for the proceedings to be adjourned so that the person can seek legal representation.
- A scheme of legal aid for applications to take a court review of a personal insolvency arrangement (PIA) that has been rejected by a person's creditors.

Of note in 2018 was the considerable drop in the use of the consultation solicitor aspect of the Scheme while at the same time the increased take up of legal aid services for the purpose of challenging creditors refusals to approve personal insolvency arrangements. Services provided on behalf of the Board under the scheme are outlined in Table 10 below.

**Table 10 – Services provided under Abhaile**

| Year  | 2016 | 2017  | 2018 |
|---|------|-------|------|
| <b>Number of legal advice vouchers issued by MABS*</b>      | 429  | 1,933 | 782  |
| <b>Number of duty solicitor days rostered</b>               | 139  | 507   | 493  |
| <b>Legal aid certificates granted for PIA court reviews</b> | 94   | 469   | 625  |

### Abhaile Case Study

The debtor ran into difficulties with her mortgage after both she and her husband were made redundant during the economic downturn. They had a number of children. The debtor sought to engage with the lending institution to find a sustainable solution to her debt issue but could not come to an agreement. The mortgage creditor was threatening to seek repossession of the property. The debtor engaged the service of a personal insolvency practitioner and made a personal insolvency proposal to her creditors. The creditors rejected the proposal and the debtor sought to institute proceedings under s115A of the Personal Insolvency Act 2012 (as amended) -applying to the court to order for approval of the proposed personal insolvency arrangement notwithstanding its rejection at the creditors meeting. Legal aid was granted for the application.

The debtor's proposal, put forward by her Personal Insolvency Practitioner, sought to extend the term of the mortgage and also to bring the mortgage in line with the current market value of her home – effectively writing off the negative equity. The debtor further proposed a number of monthly instalments as a full and final settlement of her unsecured debts. Having carefully considered the proposal and the rights of both the debtor and the creditors, the Circuit Court approved the coming into effect of the insolvency proposal notwithstanding its earlier rejection by the creditors.



## International Protection Services

### **International Protection Services**

The number of persons seeking legal services from the Board for international protection applications in 2018 was 2,079. This was an increase of 28% on the previous year. Services in international protection and related matters are provided in three of the Board’s law centres, namely Smithfield (Dublin), Pope’s Quay (Cork) and Seville

House (Galway) and also by private solicitors on a panel. Table 11 shows the number of new applications for legal services from the Board for international protection matters and also the number of persons who sought protection in the State from the Minister for Justice and Equality.

**Table 11 - International protection applications**

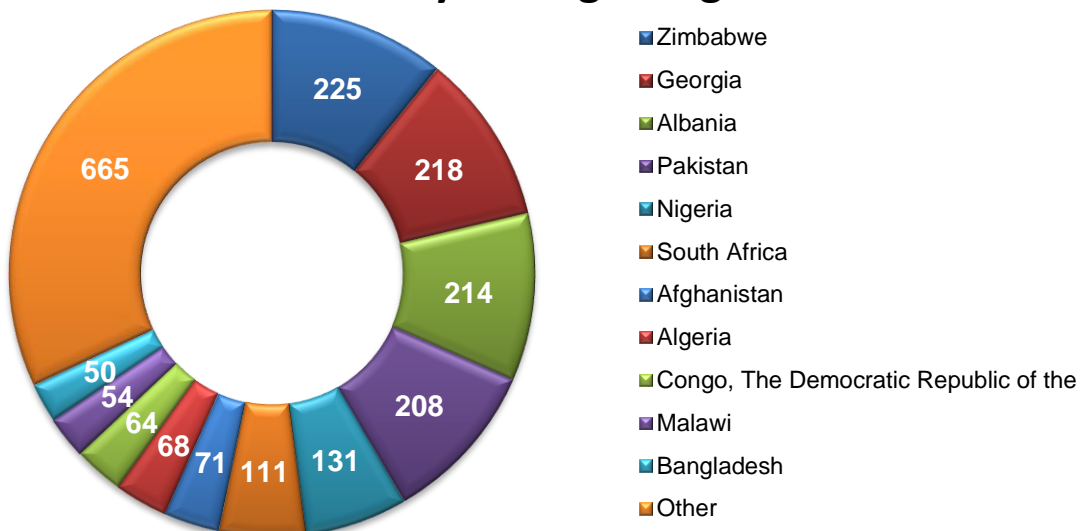
| Year  | 2013 | 2014  | 2015  | 2016  | 2017  | 2018  |
|---|------|-------|-------|-------|-------|-------|
| <b>LAB Applications</b>                                   | 708  | 902   | 1,537 | 1,658 | 1,489 | 2,079 |
| <b>International Protection Office (IPO) Applications</b> | 946  | 1,448 | 3,276 | 2,244 | 2,406 | 3,673 |

### **Country of Origin**

Of the 2,079 new applicants for legal services in relation to international protection claims, 225 came from Zimbabwe, 218 from Georgia, 214 from

Albania, 208 from Pakistan and 131 from Nigeria. The remaining 1,083 applicants came from a wide variety of countries. Applicants came from over 90 countries in total.

**Chart 5 - Country of Origin Registration 2018**



## Country of Origin Registration 2018



### ***International Protection and Children***

The Board continued to have a dedicated Children's Unit located in Dublin to handle international protection applications by unaccompanied minors. The Unit has well-developed interagency

relationships with the International Protection Office and the Child and Family Agency. In addition to preparing pre-interview submissions for separated children, the Unit also provides these clients with legal services in relation to family tracing and family re-unification.

### ***Human trafficking***

The Board provides legal services on certain matters to persons identified by the Garda National Immigration Bureau (GNIB) as potential victims of human trafficking under the Criminal Law (Human Trafficking) Act 2008.

victim of human trafficking is not required to make a financial contribution to the Board. The service is provided by Board employees who have received specialised training in human trafficking issues.

There is no requirement to satisfy the Board's financial eligibility or merits criteria for these cases and a potential

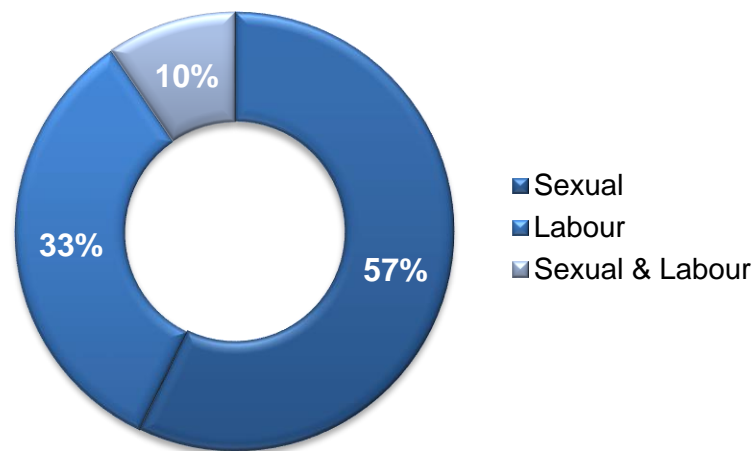
The Board provides legal services to persons identified as potential victims of human trafficking on their rights in

relation to a range of issues including their status in the State, seeking international protection, seeking redress through the employment protection legislation (legal advice only), information on what is involved in a criminal trial, information on compensation, and information on voluntary return home. The Board also provide representation in court in a

criminal trial where a victim’s past sexual history is raised.

During 2018 21 potential victims of human trafficking referred to the Board by An Garda Síochána applied for legal services. Seven of these cases related to labour exploitation, 12 to sexual exploitation, and two to sexual & labour exploitation.

**Chart 6 - Human trafficking cases referred to the Board during 2018**



**The Refugee Documentation Centre**

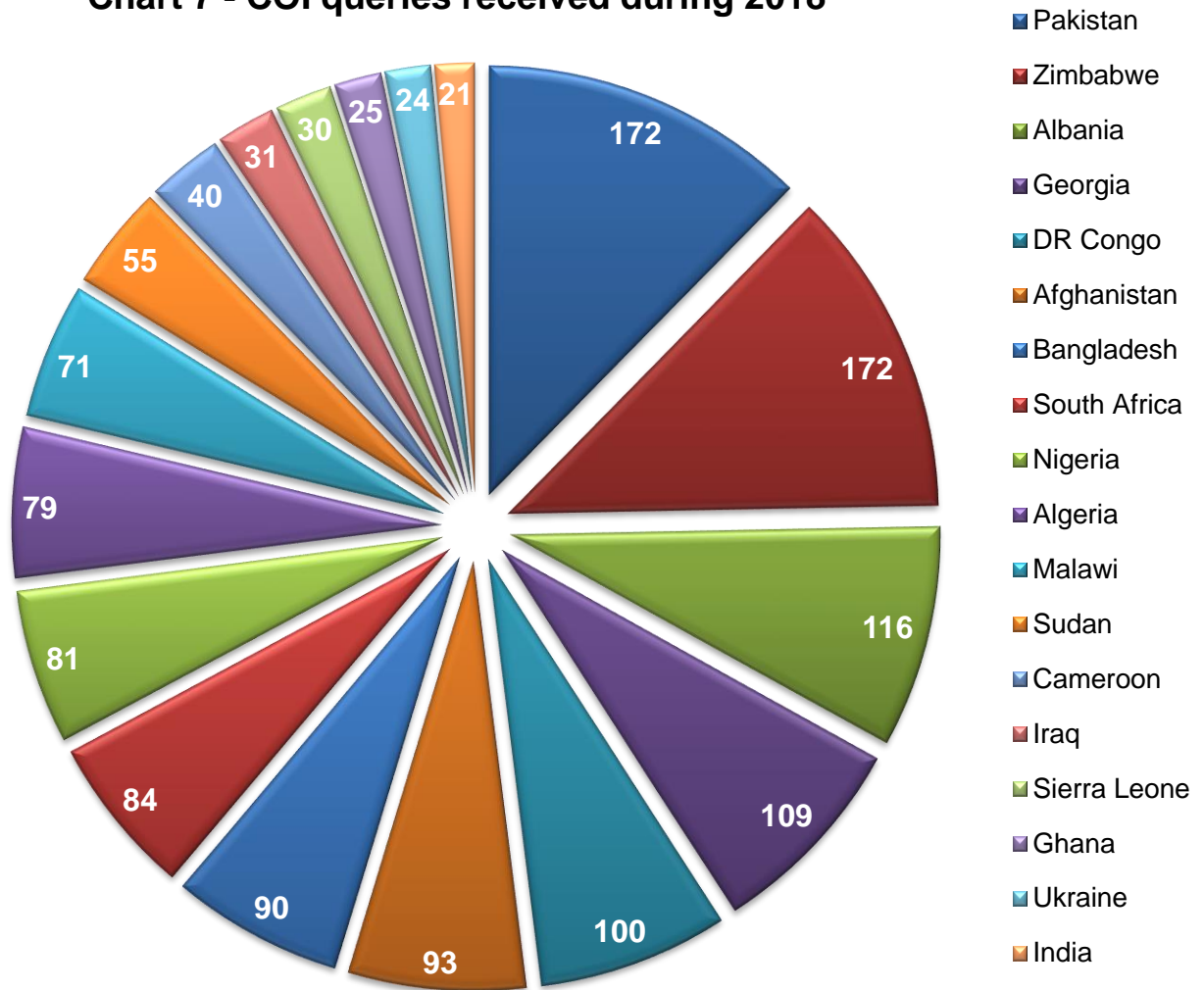
The Refugee Documentation Centre (RDC) is an independent service operating under the aegis of the Board. The main role of the Centre is to provide an objective research and query service for key organisations involved in the international protection process, with a particular focus on providing Country of Origin information (COI). Members of the public and other agencies may also use the RDC to conduct their own research.

In 2018, the RDC received 1,541 COI queries, a 17% increase in COI queries received on 2017. The RDC query

service provided a total of 1,707 COI query responses, a 51% increase on the 2017 figure. The unit also operates an interagency library service and provides a legal research function for staff of the Board. 1,129 queries were processed by the LAB library.

The main countries subject to COI queries are set out in Chart 7 below which shows countries with more than 20 queries representing 82% of all COI queries. The countries which gave rise to the largest single number of queries in 2018 were Pakistan and Zimbabwe.

**Chart 7 - COI queries received during 2018**



A brief sample of the type of information sought in the queries received is set out below:

- Mistreatment of LGBT in Zimbabwe
- Victims of forced marriage in Pakistan
- Discrimination against people with HIV in Malawi
- Treatment of failed asylum seekers in Ghana
- The Hazara people in Afghanistan
- Gender violence in Albania and the police response

The RDC continued to work closely with the European Asylum Support Office, International Protection Office and International Protection Appeals Tribunal and other users of its services in 2018 by providing training and by strengthening co-operation and meeting the various needs of its users.

## International Protection Case study

A client from Eastern Europe applied for International Protection based on a well-founded fear of persecution / serious harm as a result of domestic violence. Her application was refused by the International Protection Office but a positive recommendation for refugee status was made on appeal. The International Protection Appeals Tribunal accepted the client's credibility, and in particular noted that inconsistencies relied on by the International Protection Office were down to serious errors in translation which were discovered when the original language documents were furnished. The International Protection Appeals Tribunal determined that the client's evidence at the hearing was 'detailed, coherent and consistent'. Country of Origin information supported the Applicant's claim, and the Tribunal found that the evidence regarding the prevalence of abuse of women and girls in her country indicated a clear failure on the part of the State to tackle this problem.

In a separate case the client's claim for international protection was based on fear of persecution due to her connection to a religious movement in her (African) country of origin. That religious movement was seen as a political threat to the government. She had been raped and imprisoned for a time as a result of this connection. She fled the country leaving a number of children behind.

She was first interviewed in the Office of the Refugee Applications Commissioner who issued a negative decision relying on adverse credibility findings. An appeal was filed by her legal aid solicitor on her behalf and a request was made to the International Protection Appeal Tribunal for an appeal "on the papers" due to the client's mental health issues. This was acceded to and a detailed submission was made. There was extensive engagement by the solicitor with the Tribunal over several months. Each potential negative finding was put to the Appellant in order to ensure that the constitutional guarantee with regard to fair procedures was respected.

Owing to a change in the legislative procedures the case was referred back to the International Protection Office (formerly the Office of the Refugee Applications Commissioner) and the client was granted permission to remain. Having regard to the fact that permission to remain does attract family reunification rights and would not have entitled the client to make applications for her children to come to Ireland a further appeal was filed on behalf of the client to the International Protection Appeals Tribunal. The Tribunal recommended that she be granted subsidiary protection which does attract family reunification rights.



## Family Mediation

### **Family Mediation Service**

Family mediation services help couples who have decided to separate or divorce, who have already separated, or who have never lived together but have a child together to negotiate their own terms of agreement, taking into account the needs and interests of all involved. The mediator's role is not to come up with solutions but to facilitate the parties in dispute to come up with their own solutions.

The Board has sixteen family mediation offices in total. Four of these are co-located with law centres in Jervis House, Dundalk, Tallaght and Kilkenny. Co-located offices in Letterkenny and Portlaoise were due to open in early 2019. The service also has one full time court based service in the District Family Court in Dublin (Dolphin House). There are seven part time court based services in the following locations - Clonmel, Cork, Naas, Ennis, Dundalk, Limerick, Nenagh. New court services were due to commence in early 2019 in Carlow, Castlebar, Sligo and Letterkenny.

### **Family Mediation Process**

Mediation looks to enhance the clients' own ability to negotiate their differences and empower collaborative decision making. There are three basic types of successful outcome which the Board's mediators work towards:

**Settlement:** This type of mediation focuses on simply the settlement of issues and does not look at changing the negotiating relationship of the clients.

**Resolution:** This type of agreement focuses on changing and enhancing the negotiation relationship of the clients, believing that this creates a better and more durable agreement. The techniques used are aimed at facilitating better problem solving capacity in the clients. There is an emphasis on joint sessions, where trust can be built.

**Transformation:** This is where the parties transform their understanding of each other and thereby improve their relationship. This sort of outcome works with conflict as a creative and enhancing opportunity and is centred on empowering the parties to find a new way forward.

The Board's family mediation services primarily practice a resolution based model, whereby all issues between the parties are mediated to resolution and a written agreement can be drafted, if this is the clients' wish. The court based mediation services tend to focus on the single issues that are due to come before the Court.

### **Applying for family mediation services**

Persons can apply to avail of the Board's family mediation services at any of its family mediation offices.

### **Services provided**

In 2018 a total of 2,282 new cases attended mediation availing of 10,197 sessions, including information sessions given to one party only, resulting in 1,218 agreements. There were a total of 2,584 mediation cases closed in 2018. This included those carried over from 2017.



The number of agreements recorded includes full written or recordable verbal agreements. It does not include interim agreements, partial agreements or outcomes where the parties agree between themselves and do not wish anything recorded, this particularly refers

to cases where there has been reconciliation or a resolution of a particular communication issue or misunderstanding that is now considered resolved.

**Table 12 – Total Cases, Sessions and Agreements 2018**

|                             | <b>New Cases*</b> | <b>Total Joint Mediation Sessions</b> | <b>Total Information Sessions</b> | <b>Total Agreements</b> |
|-----------------------------|-------------------|---------------------------------------|-----------------------------------|-------------------------|
| <b>All Issues (couples)</b> | 1,807             | 6,888                                 | 284                               | 870                     |
| <b>Court Based</b>          | 475               | 1,233                                 | 1,792                             | 348                     |
| <b>Total</b>                | <b>2,282</b>      | <b>8,121</b>                          | <b>2,076</b>                      | <b>1,218</b>            |

\*A new case is defined as two clients (a couple) agreeing to mediate. This does not include information sessions that may have taken place.

**Table 13 – Cases Closed 2018**

|   | <b>Total</b> |
|---|--------------|
| <b>Total Cases Closed (including Information Sessions)</b>  | 3,394        |
| <b>Cases not progressed to Mediation</b>  | 810          |
| <b>Total Mediation Cases Closed (excluding cases opened but not progressed beyond Information Sessions)</b> | 2,584        |

### All Issues Mediation

In the general family mediation offices 1,807 new cases were commenced in 2018 with 6,888 mediation sessions attended. 870 mediated cases reached

formal agreement in 2018. It should be noted that non court referred cases are dealt with in Carlow Courthouse and Ennis Courthouse where the family mediator is based.

**Table 14 - Demand / service provision 2018 (All Issues)**

| Centre         | New Cases 2018 | Total Mediation Sessions | Reached agreement 2018 |
|----------------|----------------|--------------------------|------------------------|
| Athlone        | 127            | 473                      | 57                     |
| Blanchardstown | 174            | 900                      | 133                    |
| Carlow         | 4              | 16                       | 0                      |
| Castlebar      | 61             | 187                      | 24                     |
| Cork           | 132            | 473                      | 84                     |
| Dundalk        | 33             | 191                      | 15                     |
| Ennis          | 17             | 22                       | 3                      |
| Galway         | 181            | 788                      | 96                     |
| Jervis Street  | 218            | 706                      | 103                    |
| Kilkenny       | 37             | 161                      | 26                     |
| Letterkenny    | 98             | 333                      | 31                     |
| Limerick       | 118            | 532                      | 47                     |
| Portlaoise     | 81             | 293                      | 28                     |
| Raheny         | 1              | 55                       | 5                      |
| Sligo          | 45             | 160                      | 25                     |
| Tallaght       | 185            | 634                      | 75                     |
| Tralee         | 63             | 213                      | 36                     |
| Waterford      | 122            | 398                      | 42                     |
| Wexford        | 110            | 353                      | 40                     |
| <b>Total</b>   | <b>1,807</b>   | <b>6,888</b>             | <b>870</b>             |



## Waiting times

Comparative waiting times for Family Mediation offices at the end of 2018, 2017, 2016, 2015, 2014 and 2013 are as follows:

**Table 15 – Family Mediation Office Waiting Times**

| Office                | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|-----------------------|------|------|------|------|------|------|
| <b>Athlone</b>        | 8    | 12   | 8    | 12   | 24   | 12   |
| <b>Blanchardstown</b> | 10   | 12   | 8    | 16   | 8    | 20   |
| <b>Castlebar</b>      | 12   | 4    | 8    | 12   | 12   | 8    |
| <b>Cork</b>           | 16   | 22   | 12   | 12   | 24   | 28   |
| <b>Dundalk</b>        | 4    | 8    | 4    | 12   | 20   | 36   |
| <b>Galway</b>         | 10   | 12   | 8    | 4    | 16   | 8    |
| <b>Jervis House</b>   | 10   | 18   | 4    | 12   | 16   | 16   |
| <b>Kilkenny</b>       |      |      |      |      |      | 20   |
| <b>Letterkenny</b>    | 10   | 8    | 8    | 4    | 16   | 16   |
| <b>Limerick</b>       | 16   | 8    | 16   | 12   | 6    | 12   |
| <b>Portlaoise</b>     | 16   | 12   | 12   | 12   | 14   | 16   |
| <b>Sligo</b>          | 6    | 8    | 4    | 4    | 12   | 8    |
| <b>Tallaght</b>       | 10   | 14   | 12   | 8    | 14   | 16   |
| <b>Tralee</b>         | 14   | 12   | 8    | 20   | 12   | 6    |
| <b>Waterford</b>      | 10   | 12   | 8    | 12   | 32   | 6    |
| <b>Wexford</b>        | 14   | 12   | 12   | 8    | 12   | 16   |

## Court based mediation

Table 16 shows the level of mediation and information giving about mediation, taking place in court or on foot of referrals from a Court. A total of 475 new cases were commenced in 2018.

There was a total of 3,025 mediation sessions held comprising 1,156 1<sup>st</sup> contact information sessions, 636 2<sup>nd</sup> contact information sessions and 1,233 mediation sessions. 348 agreements were reached.

**Table 16 - Court-Based Mediation Initiatives**

| Office          | New Cases<br>(1 <sup>st</sup> Joint<br>Mediation<br>Session) | 1 <sup>st</sup> contact<br>Info<br>sessions | 2 <sup>nd</sup> contact<br>Info<br>sessions | Mediation<br>Sessions | Total<br>Sessions | Agreements |
|-----------------|--|---|---|-----------------------|-------------------|------------|
| <b>Carlow</b>   | 0  | 2   | 0   | 0                     | 2                 | 0          |
| <b>Clonmel</b>  | 0  | 3   | 2   | 2                     | 7                 | 0          |
| <b>Cork</b>     | 17   | 21  | 21  | 49                    | 91                | 16         |
| <b>Dolphin</b>  | 329  | 900   | 446   | 655                   | 2,001             | 234        |
| <b>Dundalk</b>  | 15   | 23  | 16  | 77                    | 116               | 9          |
| <b>Ennis</b>    | 34   | 52  | 44  | 154                   | 250               | 31         |
| <b>Kilkenny</b> | 34   | 61  | 45  | 135                   | 241               | 29         |
| <b>Limerick</b> | 7  | 15  | 14  | 24                    | 53                | 3          |
| <b>Naas</b>     | 34   | 72  | 41  | 114                   | 227               | 22         |
| <b>Nenagh</b>   | 5  | 7   | 7   | 23                    | 37                | 4          |
| <b>Total</b>    | <b>475</b>   | <b>1,156</b>                                | <b>636</b>                                  | <b>1,233</b>          | <b>3,025</b>      | <b>348</b> |

### Co-Location Referrals

The first co-located law centre and family mediation office was established in Jervis House, Dublin 1 in the autumn of 2016. Protocols have been put in place to try and facilitate a greater take-up of mediation on account of the co-location.

This will continue to be monitored, and changes made to procedures as considered necessary. By the end of 2018 there were further co-located offices in Tallaght, Kilkenny and Dundalk. Referrals were also made from other law centres.

### Mandatory Group Information Sessions about Mediation

In 2018, the family mediation service piloted Mandatory Group Information Sessions in the Cork Family Mediation Centre. These were provided to some of the Board's family law clients as a mandatory requirement. Applicants for a private family law matter in Cork who had a dependent child were required to attend an information session, before being granted a legal aid certificate for court

proceedings. Specifically, applicants for a District Court matter in Area 19 were required to attend, along with all applicants for Circuit Court matters. Applicants for legal services for a domestic violence remedy were not subject to mandatory information. The sessions were delivered in a conference style setting with an opportunity for participants to speak with the mediator after the session.

**Table 18 - Cork Mandatory Group Information Projects**

| <b>Cork Mandatory Group Information Projects To December 2018</b> |     |
|---|-----|
| <b>No. Of Group Sessions</b>                                      | 26  |
| <b>Total Attendance</b>   | 220 |

A total of 220 people attended a group information session. There were twenty-six group sessions conducted in 2018. Group sizes ranged between 4 and 19. The largest group of attendees was 14 and the smallest 3. Of the total 1<sup>st</sup> contact attendees, 26% had a 2<sup>nd</sup> contact invited

and attend. 78% of these couples progressed to joint mediation, and 56% of those are still active. 44% have concluded. Of those, 50% have agreements. The pilot finished at the end of 2018.



## Family Mediation Case Study

A husband and wife seeking a divorce, contacted the Board's family mediation services. The couple had lived apart for 6 years and the relationship was very fraught. They were unable to discuss much outside mediation. This including arrangements for their children, who were effectively acting as "go betweens" between their parents.

Five mediation sessions were held and the issues negotiated included the family home, arrangements for the children, financial support for the children and a personal injuries award which the husband was expecting in coming months. They were both able to consult with their own solicitor (each being advised by law centre solicitors) on a couple of occasions during the mediation process.

All matters were agreed and a full final mediation agreement was completed. The agreement included a parenting plan for the children and ground rules as to how the parents would communicate with each other. The mediator had facilitated a child consultation session, which had enabled the children to express their wishes and feelings about the separation. This helped the parents understand what decisions they needed to make for their children. Formal divorce proceedings were instituted and a divorce was granted on consent and with agreed terms of settlement approved by the Court.

The relationship between the parties significantly improved. One helpful factor was that they could discuss their options in a safe place with a third party shaping the negotiation. They were able to consider the legal advice in a non adversarial environment. The conflict and de-escalated sufficiently to allow them to parent together.

## Criminal Legal Aid

Criminal Assets  
Bureau Ad-hoc Legal  
Aid Scheme

Garda Station Legal  
Advice Revised  
Scheme

Legal Aid - Custody  
Issues Scheme

### Overview of Criminal Legal Aid Ad-hoc Schemes

There are five Criminal Legal Aid Schemes and the Board is currently responsible for the administration and management of three of them. They are as follows:

- The Garda Station Legal Advice Revised Scheme
- The Legal Aid – Custody Issues Scheme
- The Criminal Assets Bureau Ad-hoc Legal Aid Scheme

These three schemes do not have a statutory footing.

#### ***Garda Station Legal Advice Revised Scheme***

This is a non statutory scheme which caters for persons who are detained in Garda Stations. Those who satisfy certain criteria, including a financial eligibility threshold of €20,316, are entitled to legal advice under the Garda Station Legal Advice Revised Scheme by way of telephone and / or in-station consultations with a solicitor and also to legal advice by way of the attendance of a solicitor with them at a Garda / detainee interview

**Table 19 - Garda Station Legal Advice Revised Scheme Expenditure**

| Year               | 2015       | 2016       | 2017       | 2018**     |
|--------------------|------------|------------|------------|------------|
| <b>Expenditure</b> | €1,444,000 | €1,711,000 | €1,864,000 | €1,948,000 |

\*\*figures include VAT

**Table 20 - Garda Station Legal Advice Revised Scheme statistical report 2018**

| No. | Description   | Count | 2018 *     |
|-----|---|-------|------------|
| 1   | Total cost of authorised claims this year   |       | €1,548,400 |
| 2   | Overall number of claims authorised during the year   | 4,307 | €1,548,400 |
| 3   | Total number of solicitor firms that had authorised claims during the year  | 231   | €1,548,400 |
| 4   | Total number of claims authorised during the year under the <i>Offences Against the State Acts</i> legislation              | 177   | €127,200   |
| 5   | Total number of claims authorised during the year under the <i>Criminal Justice Act, 1984-2006</i> legislation              | 3,820 | €1,204,500 |
| 6   | Total number of claims authorised during the year under the <i>Criminal Justice (Drug Trafficking) Act 1996</i> legislation | 264   | €137,000   |
| 7   | Total number of claims authorised during the year under <i>Section 50, Criminal Justice Act, 2007</i> legislation           | 46    | €79,700    |
| 8   | Total number of claims authorised for consultations only  | 1,980 | €262,900   |
| 9   | Total number of claims authorised for attendance hours only   | 32    | €6,100     |
| 10  | Total number of claims authorised for consultations and attendance hours  | 2,295 | €1,279,400 |
| 11  | Total number of individual phone consultations authorised for payment   | 2,172 | €86,000    |

\*figures exclude VAT

**Table 21 - Garda Station Legal Advice Revised Scheme Payment Information**

| No. | Description                                   | 2016    | 2017   | 2018*  |
|-----|---|---------|--------|--------|
| 1   | Average payment to a solicitor firm           | €5,920  | €6,526 | €6,703 |
| 2   | Average cost per solicitor claim              | €330    | €370   | €360   |
| 3   | Average cost per individual consultation      | €90     | €92    | €93    |
| 4   | Average number of claims per solicitor firm   | 18      | 18     | 19     |
| 5   | Highest cost of an individual claim processed | €10,575 | €9,087 | €7,487 |

\*figures exclude VAT

### **The Legal Aid - Custody Issues Scheme**

The Legal Aid - Custody Issues Scheme is an administrative, non-statutory arrangement whereby legal costs payments are made in certain types of litigation not covered by Civil Legal Aid or the main Criminal Legal Aid Scheme.

The Scheme applies to the following forms of litigation:

- Habeas Corpus (Article 40.4.2) Applications
- Supreme Court, Court of Appeal and High Court Bail Motions related to criminal matters
- Judicial Reviews that consist of or include certiorari, mandamus or prohibition and which concern

criminal matters or matters where the liberty of the applicant is at issue

- Applications under Section 50 of the Extradition Act 1965, Extradition Applications and European Arrest Warrants.

A person seeking legal representation under the Scheme must notify the relevant Court at the outset of proceedings of their intention to apply for the Scheme's provisions. Depending on the type of proceedings and the financial circumstances of the applicant, the Court will then decide if a recommendation should be made to the Board to grant legal aid. It is then a matter for the Board to decide, in accordance with the terms of the Scheme, to either grant or refuse legal aid under the Scheme.

**Table 22 - Legal Aid - Custody Issues Scheme Information**

| No. | Description   | 2018*      |
|-----|---|------------|
| 1   | Number of new claims received by Board in the year                  | 146        |
| 2   | Number of individual authorised payments in the year                | 376        |
| 3   | Number of claims generating payment in year                         | 144        |
| 4   | Total cost of claims for Chief State Solicitors Office (CSSO) cases | €995,573   |
| 5   | Total cost of claims for Director of Public Prosecution (DPP) cases | €127,400   |
| 6   | Total cost of claims for Health Service Executive (HSE) cases       | €12,700    |
| 7   | Total cost of claims for Mental Health Commission (MHC) cases       | €84,148    |
| 8   | Total cost of claims for TUSLA cases                                | n/a        |
| 9   | Average cost per authorised claim in year                           | €8,471     |
| 10  | Total value of claims authorised by Board for the Scheme*           | €1,220,000 |

\*figures exclude VAT

**Table 23 - Breakdown of payments for High Court Bail applications**

| No. | Description                                | 2018**     |
|-----|--|------------|
| 1   | Total cost of High Court Bail Applications | €1,192,000 |
| 2   | Total number of Brief Fees processed       | 4,644      |
| 3   | Payments to solicitors                     | €608,000   |
| 4   | Payments to counsel                        | €584,000   |

\*\* figures include VAT

**Table 24 - Total Overall Scheme expenditure breakdown 2013 - 2018**

|                    | 2013  | 2014  | 2015   | 2016  | 2017  | 2018** |
|--------------------|-------|-------|--------|-------|-------|--------|
| <b>Expenditure</b> | €3.4m | €3.2m | €2.75m | €3.0m | €3.2m | €2.7m  |

\*\*figures include VAT

### ***The Criminal Assets Bureau Ad-hoc Legal Aid Scheme***

The Criminal Assets Bureau Ad-hoc Legal Aid Scheme is a non-statutory scheme that provides for legal representation to persons involved in certain types of litigation. Such proceedings include, but are not limited to, cases where a person is a Respondent in any court proceedings brought by the Criminal Assets Bureau under the Proceeds of Crime Act 1996,

Revenue Acts and Social Welfare legislation. A person seeking legal representation under the Scheme must notify the relevant Court at the earliest possible opportunity and it is a matter for the Court to determine whether legal aid should be granted.

The Scheme is demand driven and the final output figure in 2018 totalled €147,000 (VAT inclusive) which is an increase of 31% on the 2017 figure. The Board authorised payments in respect of

7 claims in 2018, compared to 8 claims in 2017.

**Table 25 - Total Overall Scheme expenditure breakdown 2018**

| No. | Description  | 2018*    |
|-----|--|----------|
| 1   | Number of new claims received by Board             | 6        |
| 2   | Number of claims with authorised payments by Board | 7        |
| 3   | Average cost per authorised claim                  | €17,243  |
| 4   | Total value of claims authorised for the Scheme    | €120,700 |

\* figures exclude VAT

**Table 26 - CAB expenditure 2015-2018**

|                    | 2015     | 2016    | 2017     | 2018**   |
|--------------------|----------|---------|----------|----------|
| <b>Expenditure</b> | €178,000 | €99,000 | €101,000 | €147,000 |

\*\*figures include VAT



## Supporting Service Delivery

### ***Legal Services Support / Civil Legal Aid***

The grant or refusal of civil legal aid certificates is governed by the Civil Legal Aid Act, 1995, and associated Regulations. The Board's operating model allows local law centres to grant civil legal aid certificates for most family law District Court cases, which tend to be less complex and less expensive cases. Whilst many of these cases are dealt with directly by the relevant law centre, the majority are allocated to private solicitors on the Board's District Court panel.

For cases which require representation in the Circuit or Superior Courts, the decision-making function rests with the Board's Legal Services function. The decision to grant or refuse legal aid is made on foot of a submission from the client's solicitor, which sets out the relevant facts and seeks to apply the law to those facts. The authority for case-related expenditure, such as briefing a barrister or procuring expert reports, also rests with Legal Services. This is a central part of the cost-control and governance role of the Support function.

In 2018, there were 3,364 certificates granted by the Board's Legal Services function on foot of submissions made by law centres on behalf of applicants, which mirrored the demand of the previous year. The Unit also granted 5,835 amendments to legal aid certificates in the year, an increase of 11% on the previous year. These amendments are effectively authorisations for additional services on a certificate, such as a barrister or a medical report. There were 904 authorisations given on cases prior to a decision on whether a legal aid certificate should be granted; these were primarily to enable an opinion to be sought from a barrister to help determine the merits of certain cases.

There were 248 formal refusals of legal aid on the merits criteria in 2018, with a further 55 refusals of amendments and other authorisations. Applicants who are refused a legal aid certificate or an amendment enabling further services to be provided, have the right of appeal to an Appeal Committee of the Board. Details of the number of cases appealed and the outcomes are set out below.

### **Appeal Committee**

The Appeal Committee is a statutory sub-committee of the Board that decides on cases where a person makes an appeal against a decision of the executive.

The majority of cases that come before it relate to decisions to refuse legal aid certificates.

In 2018, the Committee met on 17 occasions and considered 180 appeals.

Of these, the decision of the executive was upheld in 138 cases.

There were 40 appeals where the original decision was overturned. In 8 cases, full or partial waivers of costs or contributions were granted by the committee (out of a total of 13 sought).

Table 27 below provides an outline of the position.

**Table 27 - Appeals**

|                                       | 2014 | 2015 | 2016 | 2017 | 2018 |
|---------------------------------------|------|------|------|------|------|
| <b>Total number of appeals</b>        | 165  | 146  | 129  | 169  | 180  |
| <b>Number of decisions upheld</b>     | 131  | 111  | 105  | 131  | 138  |
| <b>- Financial criteria</b>           | 33   | 31   | 34   | 57   | 56   |
| <b>- Merits criteria</b>              | 98   | 80   | 71   | 74   | 82   |
| <b>Number of decisions overturned</b> | 26   | 31   | 23   | 35   | 40   |
| <b>Appeals withdrawn/resolved</b>     | 6    | 4    | 1    | 3    | 2    |

### **Protected Disclosures**

The Board has a policy on protected disclosure reporting in the workplace and it complies with the provisions of the Protected Disclosures Act, 2014.

The Board signed up to Transparency International Ireland's "Integrity at Work" programme in 2017.

The Policy sets out the principles underpinning the development and maintenance of an ethical culture in the organisation, the operational details of how protected disclosures are to be

made by workers in the Board and how those disclosures are to be considered.

The Board has appointed a confidential recipient. No disclosures were reported to the confidential recipient in 2018.

### **Internal Audit**

The Internal Audit function in the Board was reviewed and strengthened in 2018. A new post of Head of Internal Audit (at Director level) was created along with the appointment of the first full-time Internal Auditor at HEO level.

In addition two part time Auditors work in the Internal Audit Unit. A full review of

the audit process for the Board's law centres and family mediation offices was completed with a more comprehensive audit process being introduced. In addition, a three month follow up report was introduced to ensure that the original audit recommendations were being implemented.

Reports on audits completed by the Internal Auditors on the following law centres were presented to the Board's Audit and Risk Committee for consideration:

Athlone, Cork North, Dundalk, Galway – Seville House, Jervis Street, Longford, Letterkenny, Tallaght, Wicklow, Montague, Smithfield and Newbridge.

Reports on audits completed on the family mediation offices in Blanchardstown, Cork and Portlaoise were also presented to the Committee. Finally, three specialised audits on Complaints, Legal Services decision making, and the induction process for new staff were presented to the Committee in 2018.

All the above reports were considered by the Committee which met on five occasions in 2018.

### ***Financial Management***

The Board's Finance Unit is responsible for the financial management of the organisation. During 2018, the Unit continued to support the work of the Board through maintenance of effective accounting systems. Regular financial reports, together with periodic

expenditure analysis reports were provided to Management, the Board's Finance Committee and the Board to assist in the effective management of the Board's budget. The Unit facilitated the annual audit carried out on behalf of the Comptroller and Auditor General.

### ***Information and Communications Technology***

The principal developments in relation to information and communications technology (ICT) during 2018 included the migration of the Board's inter-office communications to the Government's virtual private network, and the rollout of card payment terminals in all law centres.

With regard to the Government VPN, the Board's IT Unit engaged with Government Networks and external contractors to connect over 90% of the Board's law centres, mediation centres, and administrative offices to the VPN. This will enable the deployment of a number of innovative technological solutions that were not previously feasible due to bandwidth constraints. It will also improve the reliability of inter-office data communications, and will realise significant cost savings.

Electronic card payment terminals were rolled out to every law centre in the country, providing Board clients with additional options regarding the payment of the contribution for civil legal aid or advice.

Significant progress was made on the replacement of end-of-life PCs across the entire office network.

### **Official Languages Scheme**

At the end of 2018 work was ongoing on the preparation of a new Scheme for the use of the Irish language. The

Board is in a position to facilitate both legal and family mediation services in the Irish language.

### **Section 42 of the Irish Human Rights and Equality Act 2014**

The Board was conscious in 2018 of its responsibilities on foot of the above legislation to eliminate discrimination, promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and protect the human rights of its members, staff

and the persons to whom it provides services. One action taken in furtherance of this responsibility was the adoption of a Equality, Diversity, Disability and Accessibility Strategy for 2018 – 2020.

### **Overview of Energy Usage in 2018**

The Board is currently on course to meet its statutory obligation to reduce energy consumption by 33% by 2020 (over a 2009 baseline). Returns are made to the Sustainable Energy Authority of Ireland (SEAI) on an annual basis, and the performance scorecard,

based on these returns is outlined below.

The offices included in this report consumed the following levels of energy over the last three years.

**Table 28 - Energy Consumption**

| Year | Electricity(kWh) | Gas (kWh) | Oil (Litres) |
|------|------------------|-----------|--------------|
| 2018 | 1,623,548        | 103,164   | 12,000       |
| 2017 | 1,511,041        | 95,268    | 15,254       |
| 2016 | 1,549,512        | 115,647   | 17,000       |
| 2015 | 1,523,587        | 120,859   | 17,000       |

### **Initiatives taken during 2018**

The Board has, throughout 2018, continued to work with the Office of Public Works (OPW) via its Optimising Power @ Work campaign to focus on staff

awareness campaigns, behavioural change and minor works projects that generate savings in energy usage.

## Progress against baseline (2009 to end 2018)

### Since Baseline to 2018



### Energy Performance Indicators - 2018



